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09/681,621	05/10/2001	Kenneth Brakeley Welles II	0391999515-0	4659

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EXAMINER

HOLLOWAY III, EDWIN C

ART UNIT	PAPER NUMBER
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2635

DATE MAILED: 04/06/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/681,621

Applicant(s)

WELLES ET AL.

Examiner

Edwin C. Holloway, III

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 January 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-54 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 54 is/are allowed.
- 6) ☒ Claim(s) 1-30, 32-42 and 44-53 is/are rejected.
- 7) ☒ Claim(s) 31 and 43 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 6.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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***Examiner's Response***

1. In response to applicant's amendment filed 1-12-04, all the amendments to the specification and claims have been entered. The examiner has considered the new presentation of claims and applicant's arguments in view of the disclosure and the present state of the prior art. And it is the examiner's opinion that the claims are unpatentable for the reasons set forth in this Office action:

***Claim Rejections - 35 USC § 102 & 103***

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1-9, 18, 27-30, 36-37, 39-42, 48-49 and 51-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flach '103 (US 5748103) in combination with Flach '659 (US 5944659).

Flach '103 discloses location determining and patient monitoring system and method with a plurality of room transmitters 150 that continuously and periodically transmit a unique location code or modulation signature in col. 7 lines 36-67. A location receiver is provided by the transceiver 134 located at the central station 122 in col. 7 lines 19-67. Telemetry devices 104 acquire physiologic data and include an identity provided by an address, serial number or timeslot ID in col. 10 lines 1-17. The telemetry devices include a

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transceivers 112 operating as a receiver to receive location the code and transmitter to transmit packets of patient data (including physiologic data and location code) to central station 122 under control of a microcontroller processor in col. 5 lines 8-65. Location codes are regularly transmitted by the telemetry devices to the central station in view of the periodic time slot transmission by the telemetry device (col. 5 lines 35-52, col. 13 lines 13-25 and col. 14 lines 49-63)) and/or the periodic transmission by the room transmitters (col. 7 lines 45-67). The central station operates as a receiver that analyzes the data and converts the code into a physical location for display along with the physiologic data in col. 7 lines 54-67.

Flach '103 differs from applicant's claims reciting transmitted patient signal including location code and physiological data without expressly reciting inclusion of telemetry device ID in the signal.

Flach '659 discloses analogous art location and patient monitoring systems in which a patient telemetry unit 102 continuously receives a location code from a location code transceiver 106 and combines this code with monitored physiological data and transmits it to the central station 112/120 for tracking the location of the patient. See col. fig. 1 and col. 6 line 24 - col. 8 line 33. ID code of the telemetry

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device 102 is included in the patient data packet in col. 7 lines 60-65.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have included in the patient data packet signal of Flach '103 the telemetry device ID in the patient data packet signal of Flach '659 to identify the telemetry device sending the packet as suggested by col. 10 lines 1-10 of Flach '103 including control packets with a telemetry device ID.

Regarding claims 2, 28 and 40, output for indicating location is provided by central station in Flach '103 that analyzes the location data and converts the code into a physical location for display along with the physiologic data in col. 7 lines 54-67 to provide location indication for tracking.

Regarding claims 29 and 41, Synchronization would have been obvious in view of the VCELL synchronization in col. 13 lines 4-19 and col. 18 lines 20-34 of Flach '659 and suggested by the synchronization in col. 8 lines 1-15 of Flach '103.

Regarding claims 30 and 42, where a room transmitter sends a time varying signal that varies between a first frequency and a second frequency and second room transmitter to send the time varying signal that varies between a third frequency and a fourth frequency during the same time that the first transmitter

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sends its time varying signal would have been obvious in view of the VCELLs in Flach '659 transmitting FSK modulation (two frequencies) on different channels so that two VCELLs would provide the claimed first through fourth frequencies. The different frequencies avoids interference. See col. 6 lines 56-61 and col. 9 lines, col. 9 lines 26-39 and col. 16 lines 21-24.

Regarding claims 36-37 and 48-49, the patient locator transmitters of Flach '103 and/or the VCELLs of Flach '659 periodically transmit reference location information corresponding a the reference tag to the extent claimed.

4. Claims 10-14, 19-23, 35 and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flach '103 (US 5748103) in combination with Flach '659 (US 5944659) as applied above in combination with Lester '265 (US 3805265), Curtin (US 3657715), Peters (US 3590271) or Beghelli (US 5459450). Regarding the PLC and/or room transmitter housing of claims 10-14, 19-23, 35, such would have been obvious in view of the PLC housing of Lester '265, Curtin, Peters or Beghelli as a convenient manner to place and power the room transmitter.

5. Claims 15-17, 24-26, 32-34, 38, 44-46, and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flach '103 (US 5748103) in combination with Flach '659 (US 5944659) as applied above in combination with Lester '265 (US 3805265) or Aires (US

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4649385). The secondary receiver would have been obvious in view of Lester '265 or Aires for two way communication to relay signals and locate a telemetry unit and suggested by col. 7 lines 51-54 of Flach '103 disclosing room transmitters responding to interrogation and Flach '103 including VCELL transceivers. Synchronization would have been obvious in view of the VCELL synchronization in col. 13 lines 4-19 and col. 18 lines 20-34 of Flach '659 and suggested by the synchronization in col. 8 lines 1-15 of Flach '103.

***Allowable Subject Matter***

6. Claim 54 is allowed.

7. Claims 31 and 43 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The applied prior art lacks determining the location of a location tag based on the offset of the time varying signals from the first and second room transmitters, where a room transmitter sends a time varying signal that varies between a first frequency and a second frequency and second room transmitter to send the time varying signal that varies between a third frequency and a fourth frequency during the same time that the first transmitter sends its time varying signal and the

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room transmitters are synchronized so each sends a unique, time dependent signal.

***Response to Arguments***

8. Applicant's arguments with respect to claims 1-29, 32-41, and 44-53 filed 1-12-04 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.



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**CONTACT INFORMATION**


Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry of a general nature should be directed to the Technology Center 2600 receptionist at (703) 305-4700 or TC 2600 Customer Service at (703) 306-0377.

Facsimile submissions may be sent via fax number (703) 872-9306 to customer service for entry by technical support staff. Questions regarding fax submissions should be directed to customer service voice line (703) 306-0377.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edwin C. Holloway, III whose telephone number is (703) 305-4818. The examiner can normally be reached on M-F (8:30-5:00). If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Horabik can be reached on (703) 305-4704.

EH  
4/5/04

  
EDWIN C. HOLLOWAY, III  
PRIMARY EXAMINER  
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